

Appl. No. 10/608,989
Amendment dated February 2, 2007
Reply to Office Action of October 26, 2006

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Remarks/Arguments

According to the October 26, 2006 non-final Office action, in response to the Appeal Brief as amended on 24 July 2006, a new issue under 35 USC 101 has been noted and thus, prosecution has been re-opened. Claims 1-30 are pending and stand rejected under 35 U.S.C. 103(a) with claims 23-30 also rejected under 35 U.S.C. 101.

Claims 23-30 have been amended to overcome the new §101 rejection. No new matter has been included in any amendment.

In view of the comments below, Applicant respectfully requests that the Examiner reconsider the present application including claims 1-30 and withdraw the rejection of these claims.

a) Claims 23-30 are rejected under 35 U. S.C. 101 because the claimed invention is directed to non-statutory subject matter. The Examiner citing the guidelines on page 53 (published 22 November 2005, Annex IV, section (a)), indicates that the claims are drawn to a computer program per se and are thus non-statutory. Per the guidelines a computer program must be embodied on a computer readable medium that is explicitly encoded with the computer program.

Accordingly, the preamble of claims 23-30 has been amended to recite “A computer readable medium encoded with a software program...” and thus the Applicant respectfully submits that this rejection has been traversed. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 23-30 under 35 U.S.C. 101.

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b) Claims 1-3, 6, 7, 12-14, 17, 18, 23, 24, and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Miner et al (U.S. Patent No. 5,6652,789) in view of Ladd et al. (U.S. Patent No.6,269,336).

Claims 1, 12, and 23 are in independent form with other cited claims dependent on the closest lowered numbered one of the independent claims.

As noted in the Appeal Brief Summary of the Claimed Subject Matter of July 24, 2006, the present invention concerns assisting with control of a subscriber device. The independent claims define a method (claim 1) (FIG. 3, 4) for a remote agent to assist with control of a subscriber device, a server (claim 12) (FIG. 2) arranged to assist with control of a subscriber device, and a corresponding software program (claim 23) executing on a server. Generally, spoken instructions at a subscriber device are sent via a message to a remote agent or server where they are converted to control commands that are returned to the subscriber device to thereby assist with control of the device. By way of a simple example, MY TELEPHONE NUMBER may be spoken and a remote agent would provide, via a control message, control commands (keypad strokes or other commands) to control the device so as to retrieve the number from the subscriber device memory. See page 17, line 11 et sequence for additional examples. FIG. 1 illustrates an exemplary system, various subscriber devices (communications units) 101, 103, 105, and servers (remote agent 119 with memory 121, assistant agents 123, 125, 127).

A method 300 in accordance with claim 1 (discussed on page 18, beginning at line 12 and depicted in flow chart form by FIG. 3) comprises receiving from the subscriber device, an instruction message that corresponds to spoken instructions 303; converting the spoken instructions to control commands 309; providing a control message corresponding to the control

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commands 313; and sending the control message from the remote agent to the subscriber device 315 (page 19, lines 12-14), thereby assisting with the control of the subscriber device (lines 14-20).

A server 200 in accordance with claim 12 (description beginning at page 8, line 7 with operational characteristics described beginning at page 11, line 19 and depicted in FIG. 2) includes a receiver 203 to receive from the subscriber device an instruction message that corresponds to spoken instructions (page 12, lines 3, et sequence); a controller 207, coupled to the receiver to convert the spoken instructions to control commands and to provide a control message corresponding to the control commands (page 12, line 20 et sequence); and a transmitter 205, coupled to the controller, to send the control message to the subscriber device (page 13, line 21, et sequence), thereby assisting with the control of the subscriber device.

A software program encoded on computer readable medium in accordance with claim 23 (generally reflected in FIG. 2, 227-239) when loaded and executing on a processor 223 of a server 200 results in the server performing method 300 (page 18, lines 8-11).

Dependent Claims 2, 13, 24, recite converting the spoken instructions to control commands corresponding to a type of subscriber device (e.g., page 12, lines 22-24). Dependent claims 3, 14 recite where the spoken instructions are converted to the control commands that correspond to keypad activations at the subscriber device (e.g., page 12, lines 21-22). Dependent claims 7, 18, 26 recite receiving the instruction message at a remote agent and forwarding this to an assistant agent for conversion and returning a message with control commands to the remote agent (e.g., page 14, lines 20-24; FIG. 4 description beginning at page 19, line 21).

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Claim 1 specifically reads:

"A method for a remote agent to assist with control of a subscriber device, the method comprising:

receiving from the subscriber device, an instruction message that corresponds to spoken instructions;

converting the spoken instructions to control commands;

providing a control message corresponding to the control commands; and

sending the control message from the remote agent to the subscriber device, thereby assisting with the control of the subscriber device."

In view of the comments below, Applicant respectfully submits that Miner et al and Ladd et al do not show or suggest, taken individually or in combination, a method at a remote agent comprising, receiving spoken instructions from a subscriber device, converting such instructions to control commands, and sending a control message corresponding to the control commands from the remote agent to the subscriber device to assist with control of the subscriber device all as recited by claim 1 or in varying form and scope by claims 12 and 23.

Miner et al discusses and describes at length an electronic assistant, which may be viewed as an agent or the like operating to assist a subscriber (person) with a corresponding device with receiving or sending phone calls etc. (see col. 6, line 61 – col. 9, line 22). However, Miner does not show or suggest aiding a given subscriber unit via a control message sent to that subscriber unit and the like as claimed. Applicant concedes that Miner et al. *arguendo* shows receiving spoken instructions, e.g., CALL, etc., from a subscriber device (col. 6, lines 61-67) and recognizing the spoken instructions and opening a dialog with a subscriber device (e.g., after recognizing CALL, agent responds with WHO, user of subscriber device responds with BILL, etc

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– col. 7, lines 1-7), and the electronic assistant subsequently operating in accordance with those spoken instructions to place a call to BILL. Presumably or implicitly the electronic assistant formulates control commands and forwards them to some network entity to effect the call placement. Applicant concedes that Minor et al receives spoken instructions and responsive thereto sends some form of a message to the subscriber device, however this message is not a control message and does not represent any form of information that could effect control of a subscriber device. Whatever Minor et al may suggest, the user of the subscriber device is always in full control of the device, i.e., Minor et al does not teach sending the control message to the subscriber device to assist with control of the subscriber device. Minor et al clearly does not show receiving spoken instructions from a subscriber device and returning corresponding control commands to that subscriber device pursuant to assisting with control of that subscriber device all as claimed by either independent claim 1, 12, or 23 or by virtue of dependency claims dependent thereon.

Furthermore, Ladd et al deals with a voice accessed browser and does not supply or suggest taken alone or together with Miner et al the teachings that are missing from Minor et al., i.e., Ladd et al does not show or suggest returning control commands or a corresponding control message to a subscriber device from which spoken instructions were received. Ladd et al (col. 2, lines 48-58) describes users (via a subscriber device) accessing information from an information source 106 using voice inputs or commands. This information can be provided to the user in varying forms including visual or audible form (see col. 3, lines 40-46). However nothing in Ladd et al taken alone or in combination with Minor et al shows or suggests sending control

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messages from the remote agent to the subscriber device to assist with control of the subscriber device as claimed.

The Examiner maintains that Miner et al shows or suggests "assisting with control of a communications unit agent" since Miner's teaching that the functionality of agent software may be enabled using remote procedure calls allowing processes to be run on separate computers (see col. 11-12)." Even if one assumes that this is a correct view, Applicant is confused as to what "assisting with control of a communications unit agent" has to do with Applicant's claims, i.e. claim 1 is directed to a method for a remote agent to assist with control of a subscriber device, claim 12 is directed to a corresponding server, and claim 23 is directed to computer readable medium with a software program for doing so. Applicant is not per se claiming control of a communication unit agent.

The Examiner then asserts that Miner et al shows or suggests

"providing a control message corresponding to the control commands" (suggested by his speech recognizer card 100, fig. 5, col. 11 which in combination with the agent noted above acts so that a dialog with the user will provide a desired result via spoken commands such that the agent executes the task, col. 13, lines 49-60);"

Applicant generally agrees that Miner et al may be viewed as providing some control message at least by implication since the electronic assistant of Miner et al does perform or effect some control of some network entity, e.g., line switching (putting calls on hold, directing them to voice mail, etc.), placing calls once a dialog is successful (see above), etc. However as the Examiner points out, in Miner the agent executes the call placement, or places the call on hold or directs the call to voice mail, whereas in the present invention the agent's task is conversion of

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the spoken instruction message and then forwarding a resultant control message to the subscriber device that provided the instruction message. This is not shown by Minor et al or Ladd et al alone or in combination.

The Examiner then maintains that Minor et al shows

"sending the control message from the remote agent to the subscriber device" (his teaching in column 12, lines 34-40 that....Not only does it include a call placed over the telephone lines but it also includes the initiation of any contact over any of the other communications media including wireless communication channels, computer networks, fax channels, etc..)"

Applicant notes that column 12, lines 34-40 states in entirety

"Note that throughout this description the term "call" is used in its most general sense. Not only does it include a call placed over the telephone lines but it also includes the initiation of any contact over any of the other communications media including wireless communication channels, computer networks, fax channels, etc. Thus, the concept of a call is not meant to be limited only to a telephone call."

Applicant respectfully submits that whatever the cited passage at col. 12 may show or suggest (viewed with or without FIG. 5), it clearly does not suggest or teach or have anything to do with the claimed "sending the control message from the remote agent (or server, etc – claim 12, 23) to the subscriber device, thereby assisting with the control of the subscriber device."

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In the October 26, 2006 Office Action, the Examiner states that

"The further arguments by the applicant seem intent on isolating the teachings of Miner in columns 11-12 without looking at figure 5" and goes on to recite Applicant's above point. The Examiner then asserts that "... the quoted passage, in combination with the communications interconnections of column 11 clearly supports the figure 5 illustration showing that assistants & agents can be located on servers that may be accessed by subscribers using telephones, computers, pagers, wireless devices, etc. Figure 5 clearly shows the necessary interconnections across one or more networks where data must flow between a wide variety of user subscriber devices and remotely located assistants & agents. For example, column 4, lines 5-10 of Miner teach that software configure will allow various components to run on separate computers which would certainly include remote servers as indicated with column 4, lines 13-20 with regard to the process architecture of Fig. 4 which combines the vmserver using RemoteProcedureCalls (RPCs). Therefore, the argument on page 12, last paragraph that Miner in view of Ladd does not show or suggest "receiving spoken instructions from a subscriber device and returning corresponding commands to that subscriber device all as claimed by either independent claim 1, 12 or 23" is false because Miner requires remote procedure calls to communicate between the different processes (col. 11, lines 10-11) which would require that the information that the user is sending will be responded to by the agents with such a response between the processes. Furthermore, Miner defines An agent is a software entity that performs an action or brings about a certain result on behalf of a user or another agent (col. 12, lines 53-55) which would require sending one or more control messages to perform actions or bring about certain results."

Applicant respectfully disagrees and submits that Applicant's arguments have and are being presented with knowledge of the interconnections shown by FIG. 5 as well as corresponding discussions. Applicant is not claiming a connection between any two of these entities other than implicitly between the subscriber device(s) and a remote agent or server. Rather, Applicant is claiming receiving spoken instructions and returning a corresponding control message from the remote agent to the subscriber device. The Examiner's assertion that

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Applicant's argument is false "because Miner requires remote procedure calls to communicate between the different processes (col. 11, lines 10-11) which would require that the information that the user is sending will be responded to by the agents with such a response between the processes" is confusing since nothing in this expression of the cited passages shows or suggests returning a control message to the subscriber device. Any subscriber device as taught by Minor et al does not utilize remote procedure calls (RPCs). Regardless of how many computers the remote agent runs on and how these various computers may interact (RPCs, etc) or are interconnected and what they may be interconnected with and in view of the definition of AN AGENT noted above, the fact remains that Minor et al does not show or suggest taken alone or together with Ladd et al., sending the control message from the remote agent to the subscriber device to assist with control of the subscriber device as claimed.

The Examiner further indicates that Ladd et al

"teaches that it was well known to use voice inputs or commands to control a wide variety of communication network functions (see col. 2, lines 18-50). It would have been obvious for a person having ordinary skill in the pertinent art, at the time the invention was made, that the speech recognizer of Miner can be used to convert input speech into control signals because Ladd explicitly teaches that this is the manner in which a speech recognition procedure needs to be implemented to provide the desired commands to a variety of systems to allow transactions over known communication networks (Ladd, col. 2, lines 40-65)."

Applicant respectfully submits that even if *arguendo*, Ladd et al and Miner et al shows or suggests all that the Examiner asserts, neither of the references taken alone or together show sending the control message from the remote agent to the subscriber device to assist with control of the subscriber device all as claimed. Facilitating transactions is not controlling or assisting

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with control of the subscriber device, i.e., as will be appreciated by one of ordinary skill or less accomplishing a transaction from ones cell phone or computer does not result in control of the cell phone or computer by a remote agent. Thus the cited references do not teach or suggest the features recited by claims 1, 12, and 23.

With respect to claims 2, 13, 24: the Examiner asserts that

"Specific information sufficient to identify the communications unit" is taught by the example given in columns 6-7 by Miner to use specific commands (col. 6, lines 61- 62) to place a phone call to a specific person."

Applicant respectfully disagrees as nothing in these columns identifies a subscriber device or as the Examiner says a communication unit. Possibly a subscriber (person) is identified, however Miner et al does not identify a subscriber device. Even assuming *arguendo* that the Examiner is correct with the above construction, these claim 2, 13, 24 also require that spoken instructions are converted to control commands that correspond to a type of subscriber device. The Minor et al electronic assistant never ever has any idea what subscriber device or type of subscriber device is being used. Clearly Minor et al does not show or suggest converting spoken instructions to control commands which correspond to a type of subscriber device. Thus the cited references do not teach or suggest all of the features recited by claims 2, 13, 24.

With respect to claim 3, 14: the Examiner maintains that

"The use of "control commands that correspond to keypad activations" are anticipated by Miner's teaching the use of spoken or DTMF commands (col. 5, line 35)."

Applicant notes that claim 3 requires not only spoken instructions being converted to

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control commands, but also that these control commands correspond to keypad activations at the subscriber device. Applicant respectfully notes that keypad activations at a particular subscriber device normally means one or more switches have been activated. For a particular subscriber device and normally state of that device, this may mean that a particular DTMF signal is generated or it may mean something else depending on the type of subscriber device and typically state of that device. Applicant respectfully asserts that the cited passage, at best, may represent, show or suggest receiving DTMF signals and converting these DTMF signals as supplied by some subscriber device to, perhaps implicitly, control commands for some other network infrastructure entity, where these control commands may correspond to the DTMF signals. This is distinct from the claimed features wherein spoken instructions are converted to control commands, which correspond to keypad activations at the subscriber device as claimed. Thus, in Applicant's carefully considered view, the cited references do not teach or suggest the features recited by these claims.

The Examiner continues in the October 26, 2006 office action and states

"The argument that the prior art does not render obvious "conversion to control commands that correspond to keypad activations" is not understood because one of the simplest examples of the prior art is for dialing a phone number which inherently requires DTMF signals. Thus, the spoken command for dialing must be converted to equivalent DTMF keypad input. Further evidence of the obviousness of voice and/or keypad input is shown by Miner in column 23, lines 35-38 where he states A recognition port uses input from the user to make a selection from a menu. Miner has already been shown to teach that the user input devices may include telephones, computers and personal digital assistants and one of less than ordinary skill in the art (i.e. - a typical user of these devices) would be aware of how to make menu selections using keypad input. Therefore, the inclusion of speech recognition for such selections renders it obvious to substitute speech input as an

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alternative over keypad input to assist the user in performing operations that would normally require more cumbersome input from a keypad or keyboard."

Again, even if the Examiner construction is appropriate, Applicant respectfully fails to see how this suggests or anticipates dependent claim 3 wherein the spoken instructions from claim 1 are converted to the control commands from claim 1, which commands correspond to keypad activations at the subscriber device from claim 1. Applicant notes that there may be instances in accordance with Minor et al, where spoken instruction are converted to a control command that by essentially happenstance are representative of a control commands which would result from keypad activations at some subscriber device. This does not teach the features of claim 3.

With respect to Claims 7, 18, 26: the Examiner asserts:

"receiving the instruction message occurs at the remote agent..." is obvious because Miner explicitly teaches that in his described embodiment the VM, Assistants, Agents and Database all reside on one host computer. There is nothing in the architecture, however, that necessitates this. Other implementations could separate these components and have them run on separate computers..." (col. 11). Thus, it is obvious that the necessary messages could be transmitted using known protocols that allow messaging between computers, telephones or other network based elements or procedures."

Applicant respectfully submits that while one may debate what a reference could have done or could have taught, the fact remains, in Applicant's respectfully considered view, that Miner et al and Ladd et al taken individually or together do not show a remote agent enlisting the services of an assistant agent for conversion of spoken instructions to control commands and returning a message to the remote agent with the corresponding control commands as

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claimed. Thus the cited references do not teach or suggest the features recited by claims 7, 18, 26.

Therefore and at least in view of the reasons noted above, Applicant respectfully submits that Miner et al and Ladd et al taken alone or together do not show or suggest the claimed invention of either claim 1, 12, or 23 or failure to teach or suggest additional features of claims 2, 3, 7, 13, 14, 18, 24, 26 or, by virtue of dependency, any of the respective dependent claims and hence these references do not support a §103(a) rejection of these claims. Thus, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 1-3, 6, 7, 12-14, 17, 18, 23, 24, and 26 under 35 U.S.C. 103(a) based on Miner et al (U.S. Patent No. 5,6652,789) in view of Ladd et al. (U.S. Patent No.6,269,336).

c) Claims 8-11, and 19-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Miner et al (U.S. Patent No. 5,6652,789) in view of Ladd et al. (U.S. Patent No.6,269,336). As applied to claim 7 above, in further view of Lucent (Lucent Unveils Bell Labs Predictive Algorithms for Call Centers, 4 Feb 1998).

Claims 8-11 are dependent on claim 1 and claims 19-22 are dependent on claim 12. Lucent does not show the features of claim 1 or 12 that are absent from the combination of Miner et al and Ladd et al. and thus claims 1 and 12 appear to be allowable over this combination of references. Thus at least by virtue of dependency on an allowable claim, dependent claims 8-11, and 19-22 should also be allowable. Therefore, Applicant respectfully requests that the

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Examiner reconsider and withdraw this rejection of claims 8-11, and 19-22 under 35 U.S.C. 103(a) based on Miner in view of Ladd and further in view of Lucent (Lucent Unveils Bell Labs Predictive Algorithms for Call Centers, 4 Feb 1998).

d) Claims 4, 5, 15, 16, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miner et al (U.S. Patent No. 5,6652,789) in view of Ladd et al. (U.S. Patent No.6,269,336) as applied to claim 1, in further view of Newton (Newton's Telecom Dictionary).

Claims 4 and 5 are dependent on claim 1, claims 15 and 16 are dependent on claim 12 and claim 25 is dependent on claim 23. Newton does not show the features of claim 1, 12, or 23 that are absent from the combination of Miner et al and Ladd et al and thus claims 1, 12, and 23 appear to be allowable over this combination of references. Thus at least by virtue of dependency on an allowable claim, dependent claims 4, 5, 16, and 25 should also be allowable. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 4, 5, 15, 16, and 25 under 35 U.S.C. 103(a) based on Miner in view of Ladd and further in view of Newton (Newton's Telecom Dictionary).

Accordingly, Applicant respectfully submits that the claims, as amended, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable. Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

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Although it is not anticipated that any fees are due or payable other than the separately noted Petition for one month fee, the Commissioner is hereby authorized to charge any fees that may be required or credit any over payments to Deposit Account No. 50-3435.

Respectfully submitted,

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